

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

UNITED STATES OF AMERICA,

Plaintiff,

v.

**MEMORANDUM OF LAW &  
ORDER**

Criminal File No. 14-20(8) (MJD)

SERGIO NUNEZ-HERNANDEZ,

Defendant.

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LeeAnn K. Bell, Assistant United States Attorney, for Plaintiff.

Robert H. Meyers, Office of the Federal Defender, for Defendants.

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This matter is before the Court on Defendant Sergio Nunez-Hernandez's Motion to Modify Sentence. (Doc. 962.) The Government has responded to Defendant's Motion and Defendant has filed a reply to the Government's response. (Doc. Nos. 966, 967.) As explained further below, the Court will grant the Motion.

On April 16, 2015, Defendant pled guilty to Count 1 of a Superseding Indictment charging him with conspiracy to distribute methamphetamine, heroin, and cocaine, in violation of 21 U.S.C. § 841(a)(1), § 841(b)(1)(A), and § 846.

(Doc. 437.) On January 21, 2016, the Court sentenced Defendant to a term of 120 months imprisonment. (Doc. 580.) Importantly for present purposes, the Court did not include a term of supervised release as part of Defendant's sentence.

(Id.)

Defendant asks this Court to modify his sentence to include a one-month term of supervised release so that he may benefit from a new BOP earned-time credit rule promulgated pursuant to the First Step Act. See 18 U.S.C. § 3624(g)(3); 24 C.F.R. § 523.44(d)(3). Defendant reports that he has accrued 365 days of credit under this new rule. Defendant has also notified the Court that the BOP can apply this credit to release him from BOP custody into the custody of Immigration and Customs Enforcement as early as April 27, 2023 if his sentence were amended to include a term of supervised release.

The Court finds that the above circumstances constitute "extraordinary and compelling" circumstances warranting relief under 18 U.S.C. § 3582(c)(1). Accordingly, the Court will grant Defendant's request and issue an Amended Judgment and Commitment adding a one-month term of supervised release to Defendant's sentence. Based on the representations of counsel for the BOP, the Court trusts that no further action is necessary on its part for Defendant to obtain

the relief he is entitled to under the BOP's new earned-time credit rule and be released from BOP custody to his immigration detainer as soon as possible.

**ORDER**

Based on the files, records, and proceedings herein, **IT IS HEREBY ORDERED** that Defendant's Motion (Doc. 962) is **GRANTED** and an Amended Judgment and Commitment shall issue adding a one-month term of supervised release to Defendant's sentence.

Dated: April 27, 2023

s/Michael J. Davis

Michael J. Davis

United States District Court